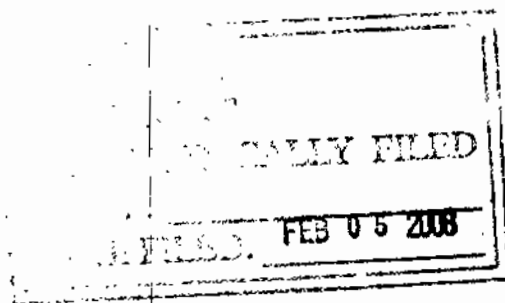


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 Southern District of New York
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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

-----X
 TERON ALEXANDER FRANCIS, et al.,

Plaintiffs,

-against-

THE BRONX LEBANON HOSPITAL CENTER,
 et al.,

Defendants.
 -----X

ECF Case

07 Civ 1450 (GBD)

STIPULATION AND ORDER OF
 SUBSTITUTION OF UNITED
 STATES AS DEFENDANT FOR THE
 DR. MARTIN LUTHER KING, JR.
 HEALTH CENTER, ROBERT C.
 BINGHAM, D.D.S., AND ARNOLD V.
 HOMER, D.D.S., AND DISMISSAL
 OF THE ACTION AS AGAINST THE
UNITED STATES

WHEREAS on or about April 12, 2007, plaintiff Teron Alexander Francis, deceased, by Marcerlyn Francis, as the Administratrix of the estate, goods, chattels and credits of Teron Alexander Francis, and Marcerlyn Francis individually (collectively, "plaintiffs") filed a Summons and Verified Complaint in the Supreme Court of the State of New York, Bronx County, Index No. 14179-07, against the Bronx-Lebanon Hospital Center, the Dr. Martin Luther King, Jr. Health Center, Robert C. Bingham, D.D.S., Arnold V. Homer, D.D.S., Indranil Gupta, M.D., Rajesh Shenoy, M.D., and "John Doe," M.D./D.D.S., alleging, *inter alia*, that they committed negligent acts and omissions in providing medical care to plaintiff Teron Alexander Francis and that, consequently, these negligent acts and omissions led to plaintiff Teron Alexander Francis's wrongful death; and

WHEREAS on or about October 23, 2007, Michael J. Garcia, the United States Attorney for the Southern District of New York removed plaintiffs' complaint to this Court pursuant to section 224(c) of the Public Health Service Act, 42 U.S.C. § 233(c), and 28 U.S.C. § 2679(d)(2), based on the

United States Attorney's certification, dated September 27, 2007, that defendants the Dr. Martin Luther King, Jr. Health Center, Robert C. Bingham, D.D.S., Arnold V. Palmer, D.D.S. were acting within the scope of their federal employment at all times relevant to the allegations of this complaint.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the plaintiffs, defendants the Dr. Martin Luther King, Jr. Health Center, Robert C. Bingham, D.D.S., Arnold V. Palmer, D.D.S., and the United States, by their respective counsel as follows:

1. Pursuant to section 224(a), (c), of the Public Health Service Act, 42 U.S.C. § 233(a), (c), and 28 U.S.C. § 2675(d), the United States shall be substituted as defendant in this action to the extent plaintiffs' claims are against the Dr. Martin Luther King, Jr. Health Center, Robert C. Bingham, D.D.S., and Arnold V. Palmer, D.D.S.; and

2. All of plaintiffs' claims against the Dr. Martin Luther King, Jr. Health Center, Robert C. Bingham, D.D.S., Arnold V. Palmer, D.D.S. are dismissed with prejudice and without costs or attorney's fees to any party; and

3. Plaintiffs' claims as against the United States are dismissed without prejudice and without costs or attorney's fees to any party, such dismissal being made pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure because plaintiffs failed to present an administrative claim to the appropriate federal agency as required under 28 U.S.C. § 2675(a); and

4. The parties understand and agree that this stipulation does not waive any rights of any party under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680, or any other applicable law; and

5. The parties understand and agree that this stipulation contains the entire agreement between them, and that no statements, representations, promises, agreements or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect.

Dated: New York, New York
January 28, 2008

SONIN & GENIS
1 Fordham Plaza, Suite 204
Bronx, New York 10458
ATTORNEY FOR PLAINTIFFS

By:

ROBERT J. GENIS
Attorney for Plaintiffs

Dated: New York, New York
January 28, 2008

MICHAEL J. GARCIA
United States Attorney for the Southern
District of New York
ATTORNEY FOR DEFENDANTS
MARTIN LUTHER KING, JR. HEALTH
CENTER, ROBERT C. BINGHAM,
D.D.S., ARNOLD W. PALMER, D.D.S.,
AND THE UNITED STATES OF
AMERICA

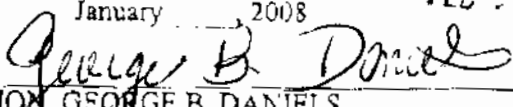
By:

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Facsimile No. (212) 637-2717

SO ORDERED.

Dated: New York, New York
January 28, 2008

FEB 27 2008


HON. GEORGE B. DANIELS
UNITED STATES DISTRICT JUDGE